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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/656,769	09/07/2000	James V. Albanese	UIB-002	1562

7590 07/19/2002

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EXAMINER

BOYD, JENNIFER A

ART UNIT	PAPER NUMBER
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1771

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DATE MAILED: 07/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/656,769

Applicant(s)

ALBANESE ET AL.

Examiner

Jennifer A Boyd

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 9/7/00.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 6, 14, 17 and 18 is/are allowed.
- 6) ☐ Claim(s) 1-5, 7-13, 15-16 and 19-21 is/are rejected.
- 7) ☐ Claim(s) 1-21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

1. The disclosure is objected to because of the following informalities: inconsistent terminology. The figure reference number 10 is referred to as "flat pile" and "pile" and

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"outside". The figure reference number 16 is referred to as "locking fin" and "fin". The figure reference number 18 is referred to as "fin" and "lock fin". The figure reference number 20 is referred to as "flat pile weatherstrip", "weatherstrip", "weatherstripping" and "pile". The figure reference number 22 is referred to as "fin" and "barrier fin". The reference number 24 is referred to as "member" and "extrusion member". The reference number 26 is referred to as "slot" and "T-slot". The reference number 42 is referred to as "kerf" and "kerf slot". The reference numbers 74 and 76 are referred to as "pile contouring fins" and "contour fins". The reference numbers 78 and 80 are referred to "side arms" and "concave side arms". The reference numbers 24 and 48 are both named "extrusion member" but point to different locations on the figures. Appropriate correction is required.

Claim Objections

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 – 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 1 recites the limitation "said bent pile " in line 8 of the claim. Claim 1 recites the limitation "said flexible pile seal" in line 9 of the claim.

5. It is unclear whether the slot is claimed in claim 1 due to the phrasing "when received" in line 1 of the claim. For the sake of searching prior art, the examiner will interpret that the slot is claimed and a part of the weatherstripping system.

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6. Claim 3 recites the limitation "said sealing action" in line 2 of the claim.

7. Claim 19 recites the limitation "said flange" in line 2 of the claim. What is the flange?

There is insufficient antecedent basis for these limitations in the appropriate claims.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-2, 6 - 13, and 19 - 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larry E. Johnson (US 5,817,390) alone or in view of L.W. Johnson (US 3,404,487).

10. Larry E. Johnson discloses a pile weatherstrip with a plurality of strands divided into separate parts tensioned to spring outwardly (Figure 1).

11. As to claim 1, Larry E. Johnson is silent regarding the holding slot as claimed in the instant invention. L.W. Johnson discloses a holding slot which would secure the weatherstripping during use (Figure 4). It would have been obvious to one of ordinary skill in the art to insert the weatherstrip as specified by Larry E. Johnson into the slot described by L.W. Johnson. It would have been obvious to one of ordinary skill in the art to create a weatherstripping of Larry E. Johnson and affix the weatherstripping into a slot of L.W. Johnson in order to securely hold the weatherstripping in place during use.

12. As to claim 2, Larry E. Johnson is silent regarding the exterior portions extending from the member to create a seal when engaged by a moving member. L.W. Johnson discloses a

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weatherstrip with seal-forming portions extending from a member when engaged (Figure 4) which would assure a tight seal. It would have been obvious to one of ordinary skill in the art create a weatherstrip of Larry E. Johnson with exterior portions that would extend beyond the slot and create a seal when engaged by a member as suggested by L.W. Johnson. It would have been obvious to one of ordinary skill in the art to create a weatherstripping with exterior portions that extend outside of the holding slot to create a seal with a member in order to assure that the weatherstripping system effectively protects against entering elements.

13. As to claim 5, Larry E. Johnson discloses a flexible rib which is disposed along the axis (Figure 1).

14. As to claim 7, Larry E. Johnson discloses an outer fin in combination with a backing strip which provides a locking mechanism when placed in said slot (Figure 1).

15. As to claim 8, Larry E. Johnson discloses a locking fin that is of a material that is flexible but more rigid than said pile. By examining Figure 1, one can see that in order to insert the backing strip into a slot the material must be flexible, however, it must be rigid enough to hold the weatherstrip into the slot. According to Figure 1, the pile has a significantly smaller width than the backing strip, therefore, it would naturally be more flexible and less rigid than the backing strip.

16. As to claim 9, Larry E. Johnson discloses an internal fin which is substantially the same height as the pile (column 3, lines 61 – 62), however, may be of greater or lesser height than the pile (column 4, lines 11 – 13).

17. As to claim 10, Larry E. Johnson discloses a locking fin which is more rigid than the internal fin in Figure 1. By examining Figure 1, one can see that the internal fin has direct

contact with the moving member so it must be almost as flexible as the pile to create the seal.

The locking fin must be flexible, but rigid enough to hold the weatherstrip into the slot.

18. As to claim 11, Larry E. Johnson discloses an internal fin which is substantially the same height as the pile (column 3, lines 61 – 62).

19. As to claim 12, Larry E. Johnson discloses a weatherstrip in which all the elements described are formed from polyolefin polymer (column 4, lines 6 – 10).

20. As to claim 13, Larry E. Johnson discloses a weatherstrip in which the preferred material is a polyolefin polymer which is held together by a continuous ultrasonic weld (column 4, lines 5 – 9).

21. As to claims 19 – 20, Larry E. Johnson discloses a weatherstrip with a flexible yet rigid internal fin assembled centrally of said pile (Figure 1). By examining Figure 1, the strands have a smaller width therefore are more flexible than the fin. Larry E. Johnson is silent regarding strands long enough to extend out of the slot when disposed in slot. L.W. Johnson discloses a weatherstrip with strands extending from a member when disposed in a slot (Figure 4) which would assure a proper seal. It would have been obvious to one of ordinary skill in the art create a weatherstrip of Larry E. Johnson with strands extending from a member when disposed in a slot as suggested by L.W. Johnson. It would have been obvious to one of ordinary skill in the art to create a weatherstripping with strands extending from a member when disposed in a slot with a member to assure that the weatherstripping system effectively protects against entering elements.

22. As to claim 21, Larry E. Johnson discloses a middle fin from which curved strands extend (Figure 1).

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23. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Larry E. Johnson (US 5,817,390) in view of L.W. Johnson (US 3,404,487) in further view of Belopavlic (DE 2,060,242).

24. Larry E. Johnson and L.W. Johnson disclose a pile weatherstrip as described in claim 1. Larry E. Johnson and L.W. Johnson, however, are silent regarding the use of the weatherstrip to provide a seal in a corner. Belopavlic discloses a seal used between a fixed element and a moving element. In the closed state, the corner of the moving component is pressed into the projecting corner of the seal to ensure a tight seal. It would have been obvious to one of ordinary skill in the art to use the weatherstrip as specified by Larry E. Johnson and L.W. Johnson in a corner as described by Belopavlic. It would have been obvious to one of ordinary skill in the art to create a pile weatherstrip to be used in a corner because corners, just as bottom edges of doors and windows, have a gap which would necessitate sealing in order to minimize drafts.

25. Claims 15 – 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larry E. Johnson (US 5,817,390) in view of L.W. Johnson (US 3,404,487) and in further view of Rilasciato (IT 293,049). The translation of the Rilasciato patent will be included in the next office action.

26. Larry E. Johnson and L.W. Johnson disclose a pile weatherstrip as described in claim 1. Larry E. Johnson and L.W. Johnson, however, are silent regarding a slot with teeth defining edges which engage the locking fin when inserted to secure the weatherstrip. Rilasciato discloses a slot which is a kerf with teeth defining edges (Figure 4) which would securely hold the weatherstrip due to the friction provided by the teeth. It would have been obvious to one of ordinary skill in the art to use the weatherstrip as specified by Larry E. Johnson and L.W.

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Johnson in a kerf as described by Rilasciato. It would have been obvious to one of ordinary skill in the art to create a pile weatherstrip to be inserted into a kerf with teeth defining edges as described by Rilasciato in order to ensure a tighter fit providing increased resistance against forces experienced by everyday use.

27. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Larry E. Johnson (US 5,817,390) in view of L.W. Johnson (US 3,404,487) and in further view of Dieterich (US 3,690,038). Larry E. Johnson and L.W. Johnson disclose a pile weatherstrip as described in claim 1. Larry E. Johnson and L.W. Johnson, however, are silent regarding the inward acute angle of the slot and throat. Dieterich discloses a slot with acutely-angled throat (Figures 3-4) which aid in the sealing action of the system. It would have been obvious to one of ordinary skill in the art to use the weatherstrip as specified by Larry E. Johnson and L.W. Johnson in an angled slot as described by Dieterich. It would have been obvious to one of ordinary skill in the art to create a pile weatherstrip to be inserted into an angled slot by Dieterich in order to ensure tighter sealing of the pile with the member.

Allowable Subject Matter

28. Claims 6, 14, and 17-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

29. Claims 6, 14, and 17-18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Boyd whose telephone number is 703-305-7082. The examiner can normally be reached on Monday thru Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Jennifer Boyd
July 5, 2002

Elizabeth M. Cole
ELIZABETH M. COLE
PRIMARY EXAMINER